

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

JAMES COOK DANIELS,)	CASE NO. 1:07 CV 853
)	
Plaintiff,)	JUDGE DAN AARON POLSTER
)	
v.)	<u>MEMORANDUM OF OPINION</u>
)	<u>AND ORDER</u>
BILL MASON,)	
)	
Defendant.)	

On March 22, 2007, plaintiff pro se James Cook Daniels, an inmate at the Mansfield Correctional Institution, filed this civil rights action against Cuyahoga County Prosecutor Bill Mason. The complaint asserts plaintiff's state conviction is void because of a delay in prosecution and the lack of a formal charge, and seeks his release from incarceration.

A district court is expressly required to dismiss any civil action filed by a prisoner seeking relief from a governmental employee or entity, as soon as possible after docketing, if the court concludes that the complaint fails to state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §1915A; Siller v. Dean, No. 99-5323, 2000 WL 145167 , at *2 (6th Cir. Feb. 1, 2000).

The complaint explicitly challenges plaintiff's current confinement in a correctional institution. When a prisoner

challenges "the very fact or duration of his physical imprisonment, ... his sole federal remedy is a writ of habeas corpus." Preiser v. Rodriguez, 411 U.S. 475 (1973).

Accordingly, this action is dismissed. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

/s/Dan Aaron Polster 5/29/07
DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE